



UNITED STATES PATENT AND TRADEMARK OFFICE

ch
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,320	06/12/2001	Ajay Hasmukhlal Upadhyay	RD 01022	5176

7590 08/23/2006

KEVIN E. MC VEIGH
RHODIA INC.
CN 7500 8 CEDAR BROOK DRIVE
CRANBURY, NJ 08512

EXAMINER

CHANNAVAJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
----------	--------------

1615

DATE MAILED: 08/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Receipt of Appeal Brief dated 6-13-06 is acknowledged.

Claims 1-8 and 31-036 have been pending.

Upon reconsideration the finality of the rejection of the last Office is withdrawn and the following rejection has been applied:

Claim Rejections - 35 USC § 103

Claims 1-8 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,372,252 to Blume et al (Blume) in view of US 5,032,406 to Dansereau et al (Dansereau).

Blume teaches immediate and sustained release formulations comprising guaifenesin. Blume teaches loading guaifenesin and methocel into a high shear mixer, mixed at high speed, adding water and further mixing at additional time to complete granulation. The composition is next dried in fluid dryer and then passed through a mill fitted a suitable size screen (col. 7, lines 63 through col. 8, lines 23). Thus, the resulting material of Blume reads on agglomerated mixture because the processing of the material involves the same steps as described in the instant application.

Blume fails to teach granulation of guaifenesin with polyvinylpyrrolidone.

Dansereau teaches a tablet composition that provides dual action, for immediate and sustained release, comprising an outer tablet and an inner tablet respectively. The active ingredient of both inner and outer tablets comprises guaifenesin. The inner tablet

Art Unit: 1615

particularly comprises guaifenesin and polyvinylpyrrolidone (PVP) (example I).

Dansereau teaches that the inner tablet is made as follows (col. 6):

50

The inner tablet is made by oscillating guaifenesin and half of the polyvinylpyrrolidone through a 30 mesh screen. The blend is then transferred to a pharmaceutical grade blender and mixed until it is of uniform consistency. It is then granulated with polyvinylpyrrolidone that had been previously dissolved in a sufficient amount of purified water to make a solution of from about 8% to about 12% of polyvinylpyrrolidone. This mixture is discharged and dried in a forced air oven at 40° C. until the water content is less than 1%. The dried granulation is then oscillated through a 12 mesh screen and returned to the blender. The remaining polyvinylpyrrolidone, microcrystalline cellulose and talc are added to this dried granulation and mixed until it is of uniform consistency. Finally, zinc stearate is added and the mixture is mixed until it is of uniform consistency. This mixture is then compressed into inner tablets using a standard tableting press.

Thus, the resulting inner tablet composition of Dansereau read on the claimed agglomerate mixture because the process involves the same steps as described in the instant specification (page 3, lines 15-20).

It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to employ PVP or methocel for the processing and preparation of compressible guaifenesin tablets because Dansereau recognizes methylcellulose (Blume) and PVP as both binders as well as disintegrants and the prior art references (Blume and Dansereau) recognize both the excipients as suitable for preparing a sustained release compressible tablet preparation comprising guaifenesin.

For the claimed additives such as glidants, lubricants, silica, stearic acid etc., Blume and Dansereau teach the conventional excipients including lubricants such as magnesium stearate, calcium stearate etc; binders such as povidone (polyvinylpyrrolidone), gelatin, starch; glidants such as talc or silicon dioxide, stabilizers and other excipients such as lactose, sorbitol etc. Accordingly, in the absence of evidence to the criticality of the specific excipients and their amounts (claims 3-4 & 33-34), it would have been obvious for one of an ordinary skill in the art at the time of the instant invention was made to choose the appropriate excipient and optimize the amounts of the same in the composition of Blume with an expectation to achieve the desired effect.

With respect to the claimed particle sizes, Blume teaches that no more than 30% granulation material passes through 100 mesh (150 microns) and not more than 10% retained on 10-mesh screen (greater than 850 microns). Thus, majority of the particles of Blume are in the range of 150 microns – 2 mm and a smaller percentage of particles are below 150 microns. A maximum of 30% of the particles that pass through the 100-mesh screen, according to Blume, could be any size below 150 microns (as low as 45 microns claimed in the instant invention). While Blume does not teach the exact percentages of particle sizes claimed in the instant application, in the absence of any unexpected results obtained with the claimed particle sizes and in particular, the percentages of particles, optimizing the sizes of the particles and the percentages of the particles of an agglomerated mixture of guaifenesin and methocel would have been obvious for one of an ordinary skill in the art at the time of the instant invention was

Art Unit: 1615

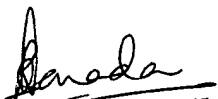
made because Blume suggests a sustained release of the guaifenesin with the above process of preparation.

Response to Arguments

Applicant's arguments with respect to claims 1-8 and 31-36 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner

Art Unit 1615

August 18, 2006



MICHAEL P. WOODWARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600